

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

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DARRYL JOYCE, #183 316

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Petitioner,

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v.

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2:05-CV-1009-ID  
(WO)

WARDEN JONES, *et al.*,

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Respondents.

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**ORDER**

In his May 11, 2006 response to the order of this court requiring that he establish cause and prejudice with respect to the claim in his petition considered procedurally defaulted, Petitioner asserts that any default arising from the failure to present his defaulted claim in accordance with the state's procedural rules was due to the ineffective assistance of appellate counsel. (Doc. No. 18.) The court therefore construes Petitioner's response as a motion to amend. Upon consideration of the motion to amend, and for good cause, it is

ORDERED that this motion (Doc. No. 18) be and is hereby GRANTED.

It is further

ORDERED that on or before May 30, 2006 Respondents shall file a supplemental answer in response to Petitioner's claim of ineffective assistance of appellate counsel and his assertion that appellate counsel's ineffectiveness establishes cause for his procedural

default. Respondents' answer should comport with the directives contained in the court's January 25, 2006 order of procedure including, but not limited to, whether the court is barred from reviewing the claim raised in the amended petition due to Petitioner's failure to properly present his federal claims to the state courts. (*See* Doc. No. 4.)

Done, this 15<sup>th</sup> day of May 2006.

**/s/ Delores R. Boyd**

DELORES R. BOYD

UNITED STATES MAGISTRATE JUDGE